Salt Lake City Community & Economic Development Department – Planning Division

PLANNING COMMISSION STAFF REPORT

May 27, 2009

Petition # PLNPCM2008-00902 Street Dedication, Planned Development Amendment – Issues Only Public Hearing

Staff: Ray Milliner (801) 535-7645 ray.milliner@slcgov.com

Address: Capitol Park Avenue, Penny Parade Drive, Redbrick Court, Charity Cove, Caring Cove.
Type of Request: Street Dedication / Planned Development Amendment

Current Zoning: Foothill Residential (FR-3 / 12,000)

Request

The Capitol Park Homeowner's Association, represented by Hirschi Christensen PLLC, is requesting a street dedication and a Planned Development amendment that would transfer ownership and maintenance responsibility of the following privately owned streets Capitol Park Avenue, Penny Parade Drive, Redbrick Court, Charity Cove, and Caring Cove from the homeowner's association to the City.

Options

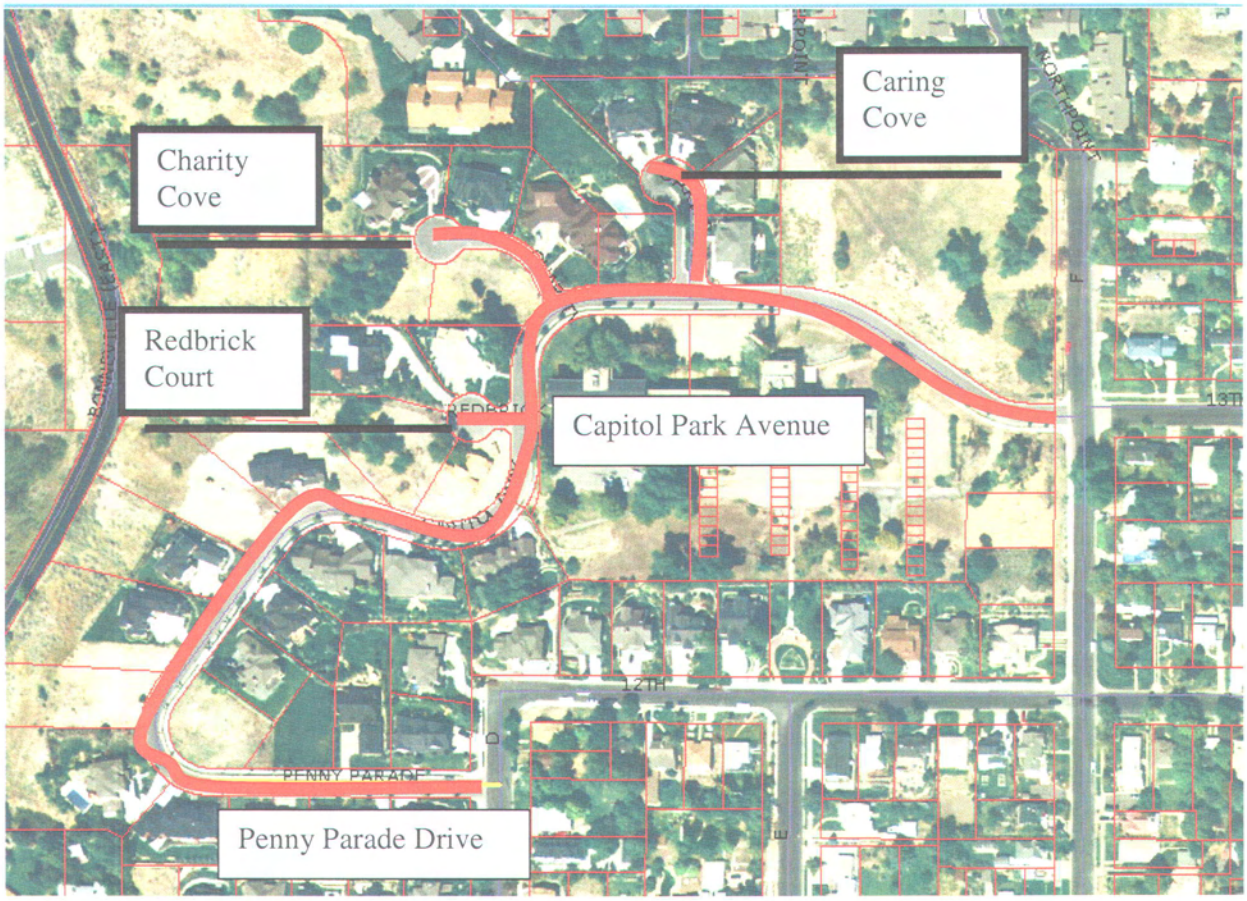
A history of the project and its related issues are featured in the background section below. The following are possible Planning Commission options:

- Direct staff to return with findings to forward the proposed street dedication amendments to the City Council, and approve the amendment to the Planned Development.
- Direct the applicant to modify the street dedication and planned development amendment and return for further discussion.
- Direct staff to prepare findings to forward a negative recommendation to the City Council for the street dedication and to deny the planned development amendment.

Recommendation

Staff recommends that the Planning Commission review the subdivision and planned development amendments to dedicate the interior streets to City ownership, conduct a public hearing and provide staff and the applicant with direction. This is an issues only public hearing and the Planning Commission will not make any final decisions on this matter during this meeting.

Vicinity Map



Project Information

Request

The Capitol Park Homeowner's Association would like to dedicate Capitol Park Avenue, Penny Parade Drive, Redbrick Court, Charity Cove, and Caring Cove as City owned public streets. This action would transfer ownership and maintenance responsibility from the Capitol Park Homeowner Association to the City. To succeed, the applicant must amend the platted subdivision, and the planned development that were both approved on August 10, 1995 by the Planning Commission. An application to amend the Subdivision was submitted on December 11, 2008 and an application to amend the planned development was submitted on April 14, 2009.

Background Information

On August 10, 1995, the Planning Commission approved a Subdivision and Planned Development for a 55 lot development on the site of the old Veteran's and Primary Children's hospitals. The purpose of the planned development was to allow a reduction in the required minimum lot area, lot width and setbacks. The plan centered on utilizing city streets along Twelfth Avenue, D and F Streets and creating internal private streets that were not built to City standards in order to limit the amount of grading and fill necessary to build the roads and support the density desired. The Commission approved the project with the following findings:

> *"**Finding**: Private streets allow a design which will help limit cut and fills required to place streets on steep slopes. Flexibility in altering zoning standards will help preserve the mature trees on this site."*
>
> *"**Finding:** The topography of most of this site has been altered in the past. Grading will be limited, for the most part for street construction. However, more widespread grading is proposed in areas where parking lots now exists for the old Primary Children's Hospital. The greatest impact will be created by grading to connect the private streets between the upper and lower elevations of the site. Cuts and fills will be required to meet site development ordinance standards (15 foot vertical maximum cut and fills). As mentioned, efforts have been made to preserve the existing trees on the site."*

Following the approval, the developer built the infrastructure and sold the lots. Today a majority of the lots are developed with single family homes.

Since then, home owners have maintained and operated the privately owned internal streets. Recently, they decided to investigate the possibility of dedicating the streets to the City. They met with city representatives, who stated that there is no policy document establishing criteria for the dedication of streets and utilities to the City. Subsequently, members of the Planning Division, City Council and Mayor's Office convened to begin working on a policy document to rectify this issue. To date, no policy document has been adopted. In the meantime, the applicant submitted this application for dedication.

Master Plan Information

The Capitol Park Subdivision is generally located north of Eleventh Avenue between C and F Streets in an area covered by the Avenues Master Plan. Most of the discussion regarding streets revolves around traffic circulation and calming. There is a specific section discussing future development of the area, but no discussion of a preference of road ownership.

Public Participation

This application was reviewed by the Greater Avenues Community Council who responded that they have no preference one way or the other with regard to this application.

City Department Comments

The proposal was reviewed by all applicable City departments and divisions. The review comments have been attached to this report as Exhibit C. There have been significant issues raised by the City that could prevent the proposal from proceeding. The applicant must comply with all City requirements (see Issue Analysis for more discussion).

Issue Analysis

The applicant is requesting that the City Council with a recommendation from the Planning Commission agree to take ownership of Capitol Park Avenue, Penny Parade Drive, Redbrick Court, Charity Cove, and Caring Cove. This action would also transfer responsibility for maintenance, snow plowing, garbage pick up and utility maintenance from the home owner's association to the City.

Various City divisions and departments have reviewed this application and provided comments. Comments state that there are issues that will need to be resolved between the homeowner's association

and the City prior to receiving final sign off of the street dedication. These issues include, but are not limited to:

1. Upgrades to the street improvements (includes sidewalks, curb, gutter etc.)
2. Creation of a special assessment district for street lights.
3. Removal of the landscaping island in Caring Cove to create a 20' right-of-way.
4. Mitigation of the steep section of Capitol Park Avenue to provide access for emergency vehicles (this may include re grading the road or the creation of easements for turnaround areas for vehicles).
5. Further review of utilities to determine whether or not they will require significant upgrades to meet City standards.

In addition to these issues, it is important to note that members of the City Council staff, Planning staff and Mayor's Office are working to create a policy document that would generate criteria for the dedication of private streets and utilities.

Discussion: Until a policy document defining the conditions under which the city will accept a private street dedication is adopted, there are no criteria for staff to follow in its analysis of the project. There are however, a number of unanswered questions regarding the amount of upgrades necessary to bring the street and utilities into conformance with City standards. If the Planning Commission recommends moving forward with an approval, staff will recommend a list of conditions of approval requiring upgrades and modifications of the street improvements that would bring it into compliance with City standards.

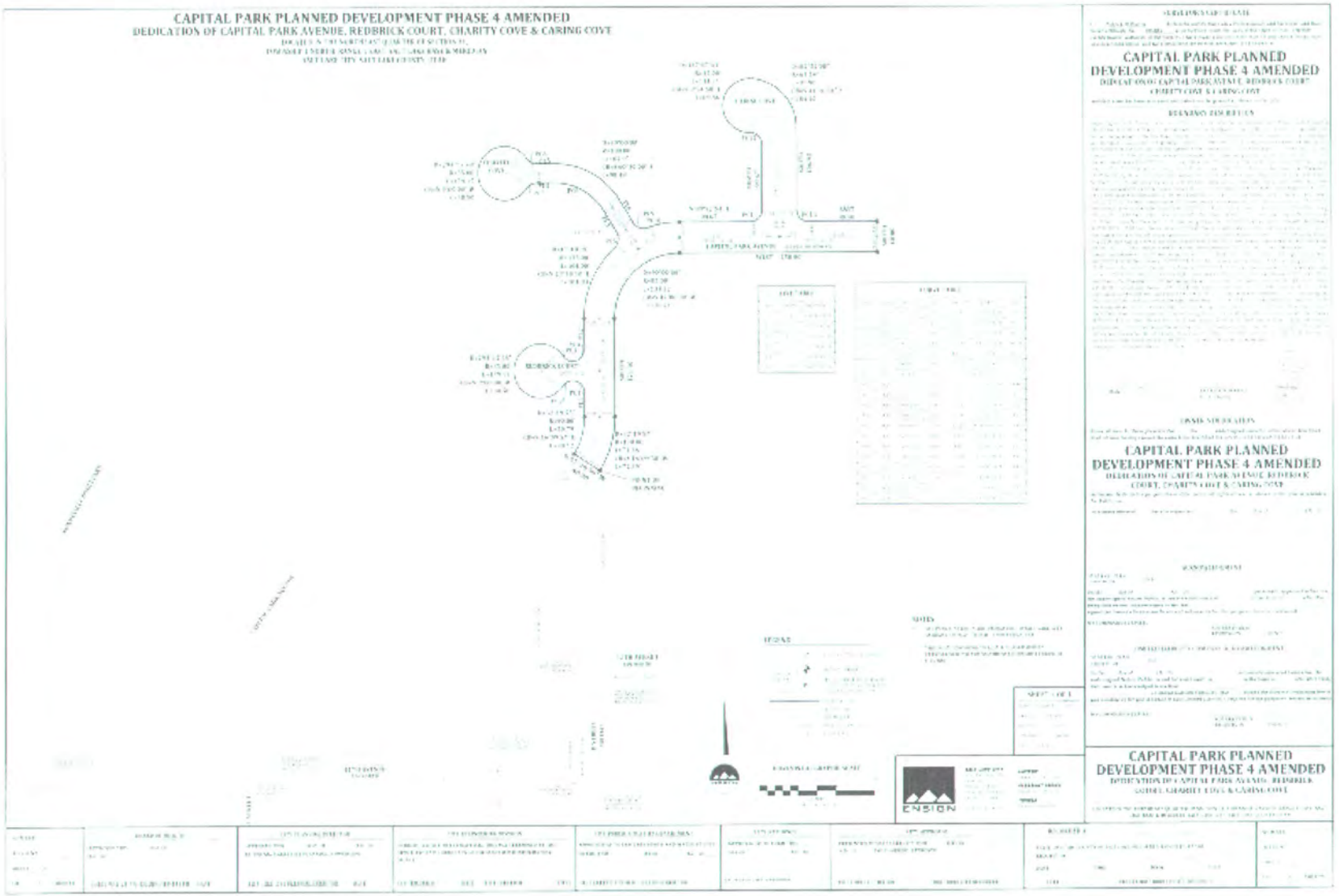
Moreover, there is the question of the slope of Capitol Park Drive. The 1995 planned development approval found that the steep grade of the street was acceptable because it would be held privately. Had the street been proposed as a public right-of-way in excess of 10%, significant changes to the development plan would have been required, including grading, sidewalks, utility construction and road width. Today, these modifications are unreasonable, as they would require significant changes to the site that would more than likely require the removal of existing homes on the property. As a result, the only avenue for allowing the existing streets under the current slope standards is to modify the 1995 planned development allowing the street at a greater slope than is allowed by City Ordinance.

Staff requests that the Planning Commission review the proposal and provide staff with direction on the following questions:

1. Is the request for a street dedication appropriate?
2. Should the application be processed after a policy document creating criteria for the street dedication is adopted?
3. Should the 1995 Planned Development approval be modified to allow the street to be built steeper than is allowed by City Ordinance?

Notification

On May 12, 2009, the May 27, 2009 Planning Commission agenda was published on the Planning Division's website and listserv, and the State of Utah's Public Meeting Notice website. On May 12, notice of the public hearing was mailed to all property owners within the subdivision area, as well as all property owners within 300 feet of the subdivision area. The staff report was published on May 20, 2009.



Petition #PLNPCM2008-00902 Capitol Park Subdivision Street Dedication

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HIRSCHI CHRISTENSEN
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May 30, 2008

Via First Class U.S. Mail and Email to eric.jergensen@slcgov.com

K. Eric Jergensen
Salt Lake City Council District Three
PO Box 145476
Salt Lake City, UT 84114-5476

Re: Dedication of Private Streets in the Capitol Park Subdivision

Dear Councilman Jergensen:

Thank you for meeting with me to discuss the public dedication of the private streets and utilities located within the Capitol Park Subdivision. As you requested in our meeting, I have drafted some proposed public policy considerations regarding the dedication of private streets and utilities. My initial thoughts are as follows:

STREETS

The following policies shall be considered by the Planning Commission and City Council in determining whether to accept a public dedication of private streets. Approval of a dedication does not require that each of the following policies be met, and the order of the policies is not intended to determine the weight or importance to afford each policy.

I. Benefit of the General Public – The streets are in use by members of the general public, rather than just the residents of the private subdivision. The streets connect to public streets, create traffic flow, aid to decrease traffic congestion of the surrounding public streets, and are otherwise beneficial to the overall plan for urban development.

II. Condition of Streets – The streets are in good condition, or are upgraded to City standards by the private owners, and the City will not need to make repairs or improvements within a reasonable time after the dedication.

III. Emergency Services – The Salt Lake City Police Department and the Salt Lake City Fire Department must certify that the streets, including the

136 EAST SOUTH TEMPLE, SUITE 1400, SALT LAKE CITY, UTAH 84111
PHONE: 801.303.5800 FAX: 801.322.0594

access to the roads, are sufficient to provide emergency services such as police patrols, fire safety, ambulance services, and other emergency services.

IV. Public Works – The Salt Lake City Public Works Department must certify that the streets, including the access to the streets, are sufficient to provide public works services such as snow removal, garbage removal, and other related services.

V. Speed Limits – The design of the streets and the makeup of the neighborhood, whether residential or commercial, allow the speed limit of the streets to match the speed limit of the neighboring or connecting streets, thereby enabling a continuity of speed limits.

VI. Significant Change in Usage or Neighborhood Makeup – The public dedication of private streets will only be appropriate when there is a significant change in the nature of the neighborhood, such as the rezoning of a contiguous property from residential to commercial, or the construction of a building for the use of the public, or an increase in the population of the neighborhood. A change in the neighborhood will only be considered "significant" if it has the effect of increasing the traffic flow on the private streets, thereby creating an undue burden on the owners of the private streets.

VII. Authority to Convey Title – The owner of the streets conveying title to the City shall warrant that the owner has authority to convey title free of encumbrances, and shall provide a policy of title insurance identifying the City as the named insured.

VIII. Future Development – The streets are located in an area where future development is contemplated, making it foreseeable that members of the general public will have use of the streets once the future development is completed. Future development can mean construction of commercial buildings, residences, public buildings, or construction of additional connecting streets.

UTILITIES

The following policies shall be considered by the Planning Commission and City Council in determining whether to accept a public dedication of private utility lines. Approval of a dedication does not require that each of the following policies be met, and the order of the policies is not intended to determine the weight or importance to afford each policy.

I. Benefit of the General Public – The utility lines are in use by members of the general public, rather than just the residents of the private

subdivision. The private utility lines connect to public lines, are part of the overall City grid system, and are otherwise beneficial to the overall plan for urban development.

II. Condition of Utilities – The utility lines are in good condition, or are upgraded to City standards by the private owners, and the City will not need to make repairs or improvements within a reasonable time after the dedication.

III. Future Development – The utility lines are located in an area where future development is contemplated, making it foreseeable that the private utility lines will be used to service the new development. Future development can mean construction of commercial buildings, residences, or other public buildings.

These policies are obviously a first draft, and I would like to meet with you to discuss these policies and obtain your input. I think it would also be beneficial for Rick Graham, Max Peterson, and Jeff Niemeyer to be in attendance. I will be out of the office from June 9 through June 20, and if at all possible I would like to meet with you before I leave. Please let me know if you would be available sometime next week, June 2 through 6. Otherwise, please let me know when you would be available after I return to the office on June 23.

In regards to our Dedication Proposal, we have spoken with Quinn Card regarding the appropriate form. Mr. Card put us in contact with the Planning Department, and we have been told there is no specific form to use. A city planner suggested that we use the form for amendment to a subdivision plat. We believe that is a good suggestion. However, the application to amend a subdivision plat requires the submission of the proposed plat at the same time as submitting the application. We have asked a surveyor at ESI, the same engineering firm that drafted the original Capitol Park Subdivision plats, to draft a dedication plat. The surveyor suggested that we first submit the dedication proposal to the City, then obtain guidance from the City regarding what will be required to be included on a dedication plat. In addition to discussing the proposed public policy considerations, I would also like to discuss your thoughts on this issue.

I appreciate your assistance in this matter, and I look forward to hearing from you.

Sincerely,
HIRSCHI CHRISTENSEN, PLLC

David P. Hirschi
Justin R. Baer

cc: Board of Trustees, Capitol Park Homeowners Association

Address:	**Penny Parade Drive**
Project Name:	**Capitol Park Subdivision-Street dedication of Penny Parade Drive.**
Contact:	Ray Milliner 535-7645
Date Reviewed:	January 21, 2009
Zone:	?

The Development Review Team (DRT) is designed to provide PRELIMINARY review to assist in the design of the complete site plan. A complete review of the site plan will take place upon submittal of the completed site plan to the Permits Counter.

Ted Itchon/Fire:
Grade not greater than 10%, outside radius 45 ft, inside 20 ft. 20' wide, and 13' 6" height clearance.

Brad Stewart/Public Utilities:
SLC Public Utilities has been in negotiations with Capitol Park HOA. There are several water, sewer, and storm drain matters to resolve before these private utilities become public. If the street goes public, then the wet utilities in the street should also become public. Public Utilities will need to review the files to determine how far along the HOA is in preparing for the water, sanitary sewer, and storm drain to be public.
Recommend allowing Public Services to also review the proposal to determine if there are any maintenance, snow plowing, or garbage collection, signage, etc. issues. I know one reason that this street is private now is because of a slope greater than our standard.

Scott Weiler/Engineering:
Utility and roadway improvements required to dedicate the R.O.W. will be listed. Jeff Niermeyer has the Public Utility list. I'll combine it with Engineering's and send it to Dave Hirschi.

FOR OFFICE USE ONLY
Flag Number:
Date Reviewed March 2, 2009
Zone:

Preliminary Development Review Team

SALT LAKE CITY CORPORATION

The Development Review Team (DRT) is designed to provide PRELIMINARY review to assist in the design of the complete site plan. A complete review of the site plan will take place upon submittal of the completed site plan to the Permits Counter.

Project Address: **Penny Parade Drive** Certified Address: Yes ☐ No ☐

Project Name: **Capitol Park Sub Street Dedication**

Contact Person **Ray Milliner** Telephone: **801 535-7645**

Attendees:

Reviewed by: J. WEICER **Dept.:** ENGINEERING **Date:** 3/1/09

Project Description: **Penny Parade street dedication.**

Comments: The City Council staff is exploring/developing a process that will enable a private street to be dedicated for public use. After this process has been decided, a full size plat must be submitted for the City surveyor to review.

Some upgrades to the street improvements will be needed before dedication.

2/06

Preliminary Development Review Team

FOR OFFICE USE ONLY
Flag Number:
Date Reviewed: March 2, 2009
Zone:

SALT LAKE CITY CORPORATION

The Development Review Team (DRT) is designed to provide PRELIMINARY review to assist in the design of the complete site plan. A complete review of the site plan will take place upon submittal of the completed site plan to the Permits Counter.

Project Address: **Penny Parade Drive** Certified Address: Yes ☐ No ☐

Project Name: **Capitol Park Sub Street Dedication**

Contact Person **Ray Milliner** Telephone: **801 535-7645**

Attendees: Ken B Ted S.W.

Reviewed by: Barry Walsh **Dept.:** TRANS **Date:** 3/2/09

Project Description: **Penny Parade street dedication.**

Comments: Trans will Post the "N/P" Signing as a complaint Basis for Residents and at the Fire Marshal.
The Developer will need to Create a Special Assessment District for the Street Light prior to Dedication

2/06

Preliminary Development Review Team

FOR OFFICE USE ONLY
Flag Number:
Date Reviewed: March 2, 2009
Zone:

The Development Review Team (DRT) is designed to provide PRELIMINARY review to assist in the design of the complete site plan. A complete review of the site plan will take place upon submittal of the completed site plan to the Permits Counter.

Project Address: **Penny Parade Drive** Certified Address: Yes ☐ No ☐

Project Name: **Capitol Park Sub Street Dedication**

Contact Person **Ray Milliner** Telephone: **801 535-7645**

Attendees:

Reviewed by: Ted **Dept.:** Fire **Date:**

Project Description: **Penny Parade street dedication.**

Comments: Caring Cove Shall Be 20' width. Provide Turnaround @ 30E Lot.

SALT LAKE CITY CORPORATION

2/06